

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA

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§
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v.

Criminal No. 3:12-CR-175-O

HERMAN VAUGHAN

ORDER

Before the Court is Defendant Herman Vaughan’s Motion for Reduction of Sentence (ECF No. 1428), filed pursuant to 18 U.S.C. § 3582. Having considered the motion, the facts of the case, and the applicable law, the Court finds that the motion should be and is hereby **GRANTED**.

I. BACKGROUND

Defendant pleaded guilty to conspiracy to distribute a controlled substance. At sentencing, the Court determined that Defendant’s total offense level would be calculated using § 2D1.1 of the United States Sentencing Guidelines Manual (the “Guidelines”). The Court sentenced Defendant to 72 months.

Defendant has moved to reduce his sentence pursuant to an amendment by the Sentencing Commission. *See generally* Mot. Reduction of Sentence, ECF No. 1428.

II. LEGAL STANDARD

The Sentencing Commission amended the provision of the Guidelines relating to drug quantity amounts to provide for a possible two (2) level reduction of the base offense level for drug sentences and made the amendment retroactive. Therefore, a defendant serving a drug sentence imposed pursuant to § 2D1.1 of the Guidelines may seek to reduce his sentence by filing a motion under 18 U.S.C. § 3582(c)(2), provided that the amendment reduces his offense level under the

Guidelines.

A defendant's eligibility for an offense level reduction under the Guidelines does not automatically entitle him to a sentence reduction. Instead, § 3582(c)(2) vests the district court with discretion to determine whether a defendant's sentence should be reduced. *United States v. Whitebird*, 55 F.3rd 1007, 1009 (5th Cir. 1995). In exercising its discretion, the district court is guided by the Sentencing Commission's policy statements and the sentencing factors enumerated in 18 U.S.C. § 3553(a). See *United States v. Henderson*, 636 F.3d 713, 714 (5th Cir. 2011).

III. DISCUSSION

Here, the Court finds that Defendant is eligible for an offense level reduction because he was sentenced using § 2D1.1 of the Guidelines and the amendment could apply to reduce his sentencing range under the Guidelines. Applying the amendment would reduce Defendant's offense level to 27, which would, in turn, produce a punishment range of 78-97 months.¹ At sentencing, the Government filed a motion for departure and the Court sentenced him to 72 months. Since Defendant received a downward departure at sentencing, he is eligible for a reduction in a comparable amount to the original reduction. See U.S.S.G. § 1B1.10 (c).

Because Defendant is eligible for an offense level reduction and a corresponding sentence reduction, the Court must consider this motion in light of the sentencing policy factors established by Congress. See *Henderson*, 636 F.3d at 714. Those factors are set out in § 3553(a), where Congress directed district courts to consider, among other things, the nature and circumstances of the offense, the history and characteristics of the defendant, and the need for a particular sentence

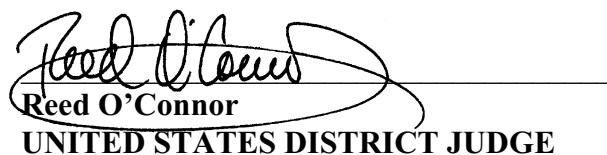
¹ All original guideline decisions, other than the guideline lowered by the Sentencing Commission, remain intact when deciding a § 3582(c)(2) motion. *United States v. Vautier*, 144 F.3d 756, 760 (11th Cir. 1998).

to reflect the seriousness of the offense, protect the public from further crimes of the defendant, and afford adequate deterrence to criminal conduct. *See* 18 U.S.C. § 3553(a). Applying these factors to Defendant's current motion, the Court finds that Defendant's sentence should be reduced to 62 months. Based on all of the information presented, Defendant's post-conviction rehabilitation as tempered by his criminal history and the offense conduct, the Court concludes this will result in a sentence that is sufficient, but not greater than necessary, to carry out the sentencing objectives set by Congress.

IV. CONCLUSION

After reviewing the amendment, as well as all of the sentencing factors set out in 18 U.S.C. § 3553(a), the Court finds that Defendant's Motion for Reduction of Sentence (ECF No. 1428) should be and is hereby **GRANTED**. Defendant's sentence is reduced to 62 months. The effective date of this reduction is November 1, 2015.

SO ORDERED on this **15th day of September, 2015**.



Reed O'Connor
UNITED STATES DISTRICT JUDGE